

MEMORANDUM

CITY OF PHILADELPHIA

TO : Sheldon Albert, City Solicitor - Law - 1520 MSB DATE Jan. 3, 1978

FROM : Anthony J. Durkin, Administrative Services Director
Department of Records - 158 CH

SUBJECT: AMENDMENTS TO BOARD OF HEALTH REGULATIONS RELATING TO LABELING,
APPLICATION, DISPOSAL AND REMOVAL OF LEAD BASED COATING

A. J. Durkin

The subject amendments promulgated by the Health Department were received in the Department of Records for filing and advertising on November 23, 1977.

Inasmuch as there were no requests for hearings these amendments became effective December 26, 1977.

cc: I.D. Polk, Acting Health Commissioner

CITY OF PHILADELPHIA
DEPARTMENT OF PUBLIC HEALTH

RECEIVED
NOV 22 1977
DEPARTMENT OF PUBLIC HEALTH

AMENDMENTS
TO
REGULATIONS OF THE
BOARD OF HEALTH OF THE CITY OF PHILADELPHIA
RELATING TO
LABELING, APPLICATION, DISPOSAL AND REMOVAL OF LEAD BASED COATING

Approved:

Board of Health

November 16, 1977

Law Department

November 22, 1977

Records Department

10/12/77

CITY OF PHILADELPHIA
DEPARTMENT OF PUBLIC HEALTH

REGULATIONS RELATING TO LABELING, APPLICATION, DISPOSAL AND REMOVAL OF LEAD
[PAINT] BASED COATING

Pursuant to Section 5-301(b) of the Home Rule Charter and Section 6-403 of the Philadelphia Code, the following regulations are promulgated by the Board of Health and issued by the Department of Public Health.

1. DEFINITIONS

In these regulations, the following definitions apply:

(a) Approved. Satisfactory compliance with this section of the Philadelphia Code as determined and [recorded] certified by the Department of Public Health.

(b) Dwelling, dwelling units, rooming house, [and,] rooming unit, and institution or similar type facility. A building structure which is wholly or partly used or intended to be used for living, sleeping, or cooking, by human occupants.

[(c) Facility. Any building or structure and equipment therein.]

[(d) Lead Paint. Any pigmented, liquid substance applied to surfaces by brush, roller or spray in which the total non-volatile ingredients contain more than one percent (1%) of lead, by weight, calculated as metallic lead.]

(c) Lead Based Coating. Any paint, lacquer or other applied liquid surface coating, and putty or caulking or other sealing compound except those allowed by Federal Law or Regulation which contains a quantity of lead more than six-hundredths of one percent (0.06 of 1%) by weight of its non-volatile content as determined by laboratory analysis or which in dried film has a lead content of 0.7 milligrams or more per square centimeter

(0.7mg/cm²) as determined through the use of instrumentation approved by the Department.

2. PROHIBITED USE OF LEAD [PAINT] BASED COATING.

No person shall apply or cause to be applied any lead [paint] based coating to toys, furniture, food utensils, household products, or the interior or exterior surfaces, fixtures or appurtenances of any dwelling, rooming house, dwelling unit, rooming unit, institution or similar type facility [occupied or used by children]

Such interior [surfaces] or exterior surfaces include [but are not limited to window sills, window frames, walls, ceilings, stair rails and spindles, or other appurtenances] all areas accessible to the height of five (5') feet and any other area where existing surface coating is not intact.

3. PROHIBITED [HANDLING] SALE, TRANSFER OR DELIVERY OF TOYS, [OR] FURNITURE, FOOD UTENSILS OR HOUSEHOLD PRODUCTS TO WHICH LEAD [PAINT] BASED COATING HAS BEEN APPLIED

No person shall sell, transfer or deliver toys, [or] furniture, food utensils or household products to which lead [paint] based coating has been applied.

4. LABELING OF LEAD [PAINT] BASED COATING

No person shall store, sell or transfer for retail purposes a lead [paint] based coating unless the container used in retail trade bears [a warning statement which shall be an integral part of the label and shall be placed in a conspicuous place on the immediate container or such paint and shall] a label in conformance with federal law or regulation. In the absence of a federal labeling requirement, such container shall bear a conspicuous warning

statement printed in letters which are legible and in [conspicuous] contrast with other printing appearing on the container [The statement shall be in substantial conformance with state and federal laws and regulations and recommended standards of the Federal Hazardous Substances Labeling Act] and shall further conform in working, type, style and size as shown herein and state as follows: [or shall be an approved equivalent:]

WARNING! CONTAINS TOXIC AMOUNTS OF LEAD - HARMFUL IF [EATEN.] TAKEN INTERNALLY.

Do not apply on toys, furniture, [window sills or other] food utensils, household products or interior or exterior surfaces of any dwelling or facility which may be occupied or used by children. [Keep away from heat and open flame.] Avoid prolonged contact with skin and breathing of vapor or spray mist. Close container after each use.

USE WITH ADEQUATE VENTILATION

KEEP OUT OF THE REACH OF CHILDREN

This warning shall also be required on accompanying literature including direction for use, where appropriate.

Where tinting or coloring added to [paint] coating at the point of sale produces a final [paint] coating product with more than [1%]0.06% lead, the labeling requirements of this section shall apply.

Labels on containers of lead [paint] based coating manufactured prior to the effective date of this regulation shall be made to conform with the above labeling requirements by the application of a separate warning label which shall be affixed directly upon the existing label, provided [,however,] that after one year

from the effective date of these regulations the warning shall be an integral part of the label on the container.

5. REMOVAL OF LEAD PAINT BASED COATING

Where the Department determines that the presence of lead based coating on any premises toy, furniture, food utensil, household product, or the interior or exterior surfaces, fixtures or appurtenances of any dwelling, rooming house, dwelling unit, rooming unit, institution or similar type facility creates a health hazard to children, it shall issue an order to the owner, his agent or occupant to eliminate the hazard. Lead based coating shall be completely removed from any surface which can be chewed or eaten ingested by children. Cracked, chipped, blistered or peeling lead paint based coating shall be completely removed. The lead paint based coating ordered to be removed shall be completely removed to the base surface under such safety conditions as may be approved by the Department. In lieu of removal of the lead paint based coating, the accessible surface, up to a height of five (5') feet, shall be covered with an approved durable material. Repainting a surface with a non-lead paint without the complete removal of the existing lead paint based coating shall not be deemed to be satisfactory compliance with this section.

The methods used for the removal of lead paint based coating shall not present a hazard to health from fumes, dust or vapors by inhalation or absorption through the skin and mucous membranes and shall be in accordance with all applicable laws,

ordinances, regulations and safety standards and practices of the City [of Philadelphia,] state and federal agencies.

6. DISPOSAL OF LEAD BASED COATINGS

Any lead based coating offered for sale, stored or transferred for retail purposes in violation of these regulations [and identified by the Department] shall be disposed of by returning unopened containers to the manufacturer and demonstrating to the Department by credit receipt the date and amount returned, or by disposal in accordance with the Pennsylvania Solid Waste Management Act, the Philadelphia Air Management Code, other applicable municipal, state, and federal codes, or by any other means acceptable to the Department.

Section 6-103 PENALTIES*

(1) In addition to any other sanction or remedial procedure provided in the Health Code, any person who shall violate any provision of this Title, and Regulation adopted under it, any order of the Department issued thereunder, or any condition of any license required thereunder and any person who knowingly participates in any such violation by any other person or who has reason to know that his participation will materially contribute to any such violation by another person, shall be subject to a fine of not less than \$25.00 and not more than \$150.00 for the first violation and not less than \$50.00 and not more than \$300.00 for the second and each subsequent violation together with imprisonment not exceeding 90 days if the fine and costs

are not paid within 10 days. Continuous violation of the same provisions shall be a separate violation for each day.

Effective date for these Regulations: February 28, 1978.

*NOTE: The provisions of Section 6-103 apply to all violations of the Health Code. They are printed here, in part, for information only.

Explanation: Underlining indicates new matter added.
Brackets indicate matter deleted.